

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

MED-PHARM LLC, §
Plaintiff, §
§
v. § Civil Action No. _____
§
PHARMACIST MUTUAL INSURANCE §
COMPANY and ALLEN B. SIMONS, §
Defendants. §

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Defendants Pharmacists Mutual Insurance Company, incorrectly sued as Pharmacist Mutual Insurance Company, and Allen B. Simons (“Defendants”), two non-Texas citizens sued in Texas state court for damages exceeding \$200,000, and file this Notice of Removal pursuant to 28 U.S.C. § 1446(a) to remove this case from the 366th Judicial District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division, on the basis of diversity jurisdiction. Defendants deny the allegations in Plaintiff’s Petition, and any amendments thereto, along with the claimed damages, and file this Notice of Removal without waiving any defenses, exceptions, or obligations that may exist in Defendants’ favor in state or federal court.

**I.
REMOVAL IS PROPER**

1. On August 31, 2017, Plaintiff filed its Original Petition in this matter in the 366th Judicial District Court of Collin County, Texas, and it was provided Cause No. 366-04226-2017.

2. The citation and Petition were served on Defendant Pharmacists Mutual Insurance Company on October 17, 2017. The citation and Petition were allegedly served on Defendant Allen B. Simons on October 17, 2017.

3. Copies of all pleadings, process, orders and other filings in the state court suit are provided in the Appendix to this Notice of Removal pursuant to 28 U.S.C. § 1446(a).

4. This Notice of Removal is filed within 30 days of receipt of the Petition and is timely filed under 28 U.S.C. § 1446(b).

5. Venue is proper in this district under 28 U.S.C. § 1441(a) because the state court where the suit has been pending is located in the district.

6. All Defendants consent to the removal of this case to federal court. 28 U.S.C. § 1446(b)(2)(A).

7. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

II.
BASIS FOR REMOVAL

8. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every Defendant is now and was at the time the action was commenced diverse in citizenship from Plaintiff. No Defendant is or was at the time the suit was commenced a citizen of the State of Texas.

9. Plaintiff MED-PHARM LLC is a limited liability company organized and existing under the laws of the State of Texas. *See APPX00007*. Plaintiff is now and was at the time this action was commenced a citizen of the State of Texas and of no other state.

10. Defendant Pharmacists Mutual Insurance Company is a corporation organized and existing under the laws of the State of Iowa with its principle place of business now and at the time

this action was commenced in the State of Iowa. Defendant Pharmacists Mutual Insurance Company is now and was at the time this action was commenced a citizen of the State of Iowa and of no other state.

11. Defendant Allen B. Simons is an individual domiciled in the State of Pennsylvania and was domiciled there at the time this action was commenced. Defendant Allen B. Simons is now and was at the time this action was commenced a citizen of the State of Pennsylvania and of no other state.

12. Plaintiff's Original Petition recites that Plaintiff sues for "monetary relief over \$200,000.00 but not in excess of \$1,000,000.00." *See APPX00008*. Accordingly, the amount in controversy in this action exceeds the sum of \$75,000.00, exclusive of interest and costs.

13. Removal of this action is proper as it is a civil action brought in a state court and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332 because there is complete diversity between Plaintiff and Defendants and the amount in controversy exceeds \$75,000.00, excluding interest and costs. 28 U.S.C. § 1441.

III.
LOCAL RULE CV-81 INFORMATION

14. Copies of all documents required pursuant to Local Rule CV-81(c) are included in the Appendix to this Notice of Removal. The information required pursuant to Local Rule CV-81(c) is as follows:

a. Parties and Counsel:

Plaintiff
MED-PHARM LLC
Timothy M. Hock
Texas State Bar No. 09744950
HOCH LAW FIRM, P.C.
5616 Malvey Avenue
Fort Worth, Texas 76107

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Defendant

Pharmacists Mutual Insurance Company
Amos D. Pettis
Texas State Bar No. 24027730
THE WILLIS LAW GROUP, PLLC
10440 N. Central Expressway, Suite 520
Dallas, Texas 75231
Telephone: (214) 736-9433
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Defendant

Allen B. Simons
Amos D. Pettis
Texas State Bar No. 24027730
THE WILLIS LAW GROUP, PLLC
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Dallas, Texas 75231
Telephone: (214) 736-9433
Facsimile: (214) 736-9994
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b. Status of Case: Pending.

15. At the time of removal, no request for a jury trial has been filed by any party.

16. The name and address of the court from which the case is being removed is:

366th Judicial District Court of Collin County, Texas
Honorable Judge Ray Wheless
Russel A. Steindam Courts Building
2100 Bloomdale Road, Suite 30146
McKinney, Texas 75701
Court Coordinator: (972) 548-4570
District Clerk: (972) 548-4320

**IV.
PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants Pharmacists Mutual Insurance Company and Allen B. Simons join together and, pursuant to these statutes and in conformance

with the requirements of 28 U.S.C. § 1446, remove this action from the 366th Judicial District Court of Collin County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

/s/ Amos D. Pettis
AMOS D. PETTIS (Lead Counsel)
Texas Bar No. 24027730

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***ATTORNEY FOR DEFENDANTS
PHARMACISTS MUTUAL INSURANCE
COMPANY and ALLEN B. SIMONS***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on November 15, 2017.

/s/ Amos D. Pettis
AMOS D. PETTIS